



1 ENERGY AND ENVIRONMENT CABINET

2 Department for Natural Resources

3 Division of Mine Safety

4 (Amendment)

5 805 KAR 8:030. Criteria for the imposition and enforcement of sanctions against certified miners.

6 RELATES TO: KRS 351.1041, 351.120, 351.194, 352.010- 352.540 [~~352.550~~]

7 STATUTORY AUTHORITY: KRS 351.025(1)(a), 351.070(13)

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 351.070(13) authorizes the
9 Commissioner of the Department for Natural Resources [~~Department of Mines and Minerals~~] to
10 promulgate administrative regulations he deems necessary and suitable for the proper
11 administration of KRS 351.090 to 351.9901. KRS 351.025(1)(a) requires the Department for
12 Natural Resources [~~Department of Mines and Minerals~~] to promulgate administrative regulations
13 that establish comprehensive criteria for the imposition and enforcement of sanctions against
14 certified miners whose intentional violation of, or order to violate, mine safety laws places miners
15 in imminent danger of serious injury or death. This administrative regulation establishes the
16 criteria for the revocation, suspension, or probation of a miner's certificate upon an adjudication
17 by the Mine Safety Review Commission that a miner has committed this type of violation.

18 Section 1. (1) If a certified miner commits a first offense, as adjudicated by the Kentucky
19 Mine Safety Review Commission, the commission may revoke or suspend the miner's certificate
20 for a period of time to be determined at the discretion of the commission, pursuant to KRS

1 351.194(5) and (6), or it may probate the miner's certificate for a period of no greater than ten (10)
2 working days.

3 (2) If a certified miner's certificate is revoked pursuant to subsection (1) of this section, the
4 miner may apply to the Division of Mine Safety [~~Kentucky Mining Board~~] for the reinstatement
5 of his certificate, after the revocation period has ended, and after he has retaken and passed the
6 requisite examination required for the certification. The Division of Mine Safety [~~Mining Board~~]
7 may grant or deny the application.

8 (3) If a certified miner's certificate is suspended, pursuant to subsection (1) of this section,
9 it shall be automatically reinstated at the end of the specified period of suspension. A suspension
10 imposed by the commission may be for nonconsecutive days.

11 (4) If a certified miner is placed on probation, the Mine Safety Review Commission may
12 impose the terms of the probation, and it may impose penalties for the violation of the terms of
13 probation. If the certified miner satisfies the terms of his probation, the probation shall
14 automatically expire at the end of the probationary period.

15 (5) If a certified miner, who has been adjudicated by the Mine Safety Review Commission
16 to have committed a first or subsequent offense, holds more than one (1) certificate, the
17 commission may revoke, suspend, or probate some or all of the miner's certificates.

18 (6) If a certified miner, who has been adjudicated by the Mine Safety Review Commission
19 to have committed a first or subsequent offense, is an hourly employee and not a foreman, in
20 determining the penalty for the miner, the commission shall determine and state in its decision
21 whether the miner was ordered by a foreman or other superior to violate the mine safety law in
22 question, or whether the miner acted solely on his own accord, if the miner raises that issue. If the
23 commission determines that the miner was ordered by a foreman to violate the mine safety law,

1 the commission shall state whether and why that fact mitigated the severity of the penalty it
2 imposed.

805 KAR 8:030 approved for filing.
Pages (1-3)

8/14/2017

Date

Charles G. Snavely
Charles G. Snavely, Secretary
Energy and Environment Cabinet

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on September 26, 2017 at 5:00 P.M. (Eastern Time) in Training Room C of the Energy and Environment Cabinet at 300 Sower Blvd, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency by September 19, 2017, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through September 30, 2017. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Michael Mullins, Regulation Coordinator, 300 Sower Blvd, Frankfort, Kentucky 40601, phone: (502) 782-6720, fax: (502) 564-4245, email: michael.mullins@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation No.: 805 KAR 8:030
Contact Person: Michael Mullins

Contact number: (502) 782-6720
Email: michael.mullins@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the criteria for the revocation, suspension, or probation of a miner's certificate upon an adjudication by the Mine Safety Review Commission.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the criteria for the revocation, suspension, or probation of a miner's certificate upon an adjudication by the Mine Safety Review Commission.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 351.025(1)(a) requires the Department for Natural Resources to promulgate administrative regulations that establish comprehensive criteria for the imposition and enforcement of sanctions against certified miners whose intentional violation of, or order to violate, mine safety laws places miners in imminent danger of serious injury or death. This administrative regulation establishes the criteria for the revocation, suspension, or probation of a miner's certificate upon an adjudication by the Mine Safety Review Commission.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing the criteria for the revocation, suspension, or probation of a miner's certificate upon an adjudication by the Mine Safety Review Commission.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment makes changes necessary to implement the requirements of SB 249 from the 2017 Legislative Session.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to replace the Mining Board with the Division of Mine Safety. SB 249 from the 2017 Legislative Session abolished the Mining Board and provided the authority to the Division of Mine Safety.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the authorizing statutes by providing the Division of Mine Safety authority to establish the criteria for the revocation, suspension, or probation of a miner's certificate upon an adjudication by the Mine Safety Review Commission.

(d) How the amendment will assist in the effective administration of the statutes: These amendments are necessary to implement the requirements of SB 249 from the 2017 Legislative Session and assists in the effective administration of the statutes by providing the Division of Mine Safety the authority formally held by the Mining Board.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This provision would apply to any entity that operates coal mines within Kentucky or is a certified miner or wishes to become a certified miner.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The entities listed in question (3) above will follow criteria for the revocation, suspension, or probation of a miner's certificate upon an adjudication by the Mine Safety Review Commission. This criteria is now under the authority of the Division of Mine Safety as is the authority to reinstate certifications after a first offense.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is not a cost increase associated with the proposed amendments.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The action of reinstating certifications of first offenses will now be under the authority of the Division of Mine Safety. Individuals applying to have their certifications reinstated will no longer need to wait for a meeting of the Mining Board.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There will be no costs to the department associated with implementation of this amendment.

(b) On a continuing basis: There will be no costs to the department associated with implementation of this amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The funding for implementation of the amendments to this administrative regulation will be a combination of general funds and restricted funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: The amendments to this administrative regulation will not require an increase in fees or funding.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish or increase any fees.

(9) TIERING: Is tiering applied? (Explain why or why not) No. All entities that are seeking reinstatement of certifications will be handled the same.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Administrative Regulation No.: 805 KAR 8:030
Contact Person: Michael Mullins, Reg. Coordinator

Contact number: (502) 782-6720
Email: Michael.mullins@ky.gov

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department for Natural Resources, Division of Mine Safety and the Mine Safety Review Commission.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 351.1041; 351.120; 351.194; 352.010- 352.540; KRS 351.025(1)(a); 351.070(13)

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This amended administrative regulation will not generate any new revenue for the state or local government.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amended administrative regulation will not generate revenue in subsequent years.

(c) How much will it cost to administer this program for the first year? There will not be a cost increase associated with the amendments to this administrative regulation.

(d) How much will it cost to administer this program for subsequent years? Future costs would remain essentially unchanged related to this amendment.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):	There is no known effect on current revenues.
Expenditures (+/-):	There is no known effect on current expenditures.
Other Explanation:	There is no further explanation.